

Remarks

Claims 1-19 are pending in the subject application. Applicants gratefully acknowledge the Examiner's indication that the elected species is free of the prior art. By this Amendment, Applicants have amended claims 1 and 15, and added new claim 20. Entry and consideration of the amendments presented herein is respectfully requested. Favorable consideration of the pending claims is respectfully requested.

Applicants acknowledge that the Examiner has withdrawn claims 3-7, 10-14, 18, and 19 from further consideration on the grounds that no generic claim has been found to be allowable and, therefore, these claims are drawn to nonelected species. However, as is discussed in more detail below, Applicants respectfully request that claims 3-7, 10-14, 18, and 19 be rejoined in the subject application.

Claims 1, 9, 15, and 16 are rejected under 35 USC §102(b) as anticipated by Turkson *et al.* (2001). The Turkson *et al.* reference is cited as teaching a compound of formula  $R^1Y^*L$  where  $R^1$  is a heterocycloalkyl,  $Y^*$  is phosphorylated tyrosine, and L is leucine. By this Amendment, Applicants have amended claims 1 and 15 to delete heterocycloalkyl as an  $R^1$  substituent. Claim 9 recites a peptidomimetic of amended claim 1 and claim 16 depends from amended claim 15; therefore, claims 9 and 16 no longer recite heterocycloalkyl as an  $R^1$  substituent. Applicants also note that claims 3, 4, 5, 6, and 7 recite  $R^1$  as being a substituent other than heterocycloalkyl. For example, claim 2 recites that  $R^1$  is optionally substituted aryl, claim 4 recites that  $R^1$  is substituted phenyl, and claim 6 recites that  $R^1$  is optionally substituted heteroaryl. Claims 3, 5, and 7 depend from claims 2, 4, and 6, respectively. Thus, Applicants respectfully submit that if generic claim 1 is found to be allowable, then these subgeneric claims should also be rejoined and held allowable. In addition, Applicants also respectfully request that method claims 10-14, 18, and 19, which are limited to the use of the peptidomimetic of amended claim 1, be rejoined in the subject application in accordance with MPEP §821.04. Accordingly, reconsideration and withdrawal of the rejection under 35 USC §102(b), is respectfully requested.

Claims 15 and 16 are rejected under 35 USC §112, second paragraph, as indefinite. The Examiner asserts that the use of the term "analog" renders the claims indefinite. Applicants respectfully assert that the claims are clear and definite in their use of the term "analog." It is not

required under U.S. patent law that a specification explicitly teach every example of an “analog” contemplated by the term. The subject specification, at page 9, lines 17-19, specifies that an analog of phosphotyrosine is one that when substituted in the peptidomimetic, the peptidomimetic has substantially the same biological activity as the non-analog containing peptidomimetic. Thus, an ordinarily skilled artisan would understand what would be contemplated as an analog of phosphotyrosine in the claimed invention. However, by this Amendment, Applicants have canceled the term “analog” from claim 15 and amended the claim to recite various substituents which can substitute on the aromatic ring of phosphotyrosine. Applicants have also added new dependent claim 20. Support for new claim 20 and the amendment to claim 15 can be found, for example, at page 9, lines 20-22, of the subject specification. Applicants also respectfully assert that, in accordance with the Doctrine of Equivalents and accepted principles of claim construction, the claims, as amended, are intended to cover all analogs of phosphotyrosine, not just those “analogs” specifically recited in the claims. Accordingly, reconsideration and withdrawal of the rejection under 35 USC §112, second paragraph, is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicants’ agreement with or acquiescence in the Examiner’s position.

In view of the foregoing remarks and amendments to the claims, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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